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Controller, Sacramento

DOUGLAS D. BELL
Executive Secretary

March 24, 1988

RE: Access to County Assessor's Records by Local Planning
Agencies

Dear Mr. Petersen:

This is in response to your letter dated February 26, 1988, to Assistant Chief Counsel, in which you ask whether your local planning department has a right of access to your records under Government Code section 65106.

Revenue and Taxation Code section 408 provides that the assessor's records are not public and shall not be open to public inspection except for those records required to be kept by law. (See section 408(a)) The assessor may provide appraisal data in his or her possession that relates to the appraisal of an assessee's property, but shall not provide or permit inspection of information records, other than market data, which relates to the property or business affairs of other persons, except when ordered by the courts. (See section 408b) However, the assessor shall disclose information and permit access to his or her records to law enforcement agencies, the county grand jury, the board of supervisors or their agents, persons investigating the assessor's office under section 25303 of the Government Code, the controller, probate referees, employees of the Franchise Tax Board, staff appraisers of the Department of Transportation and the Department of General Services, the State Board of Equalization, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records. (Emphasis added) You can see that access to the assessor's records has been given to many governmental entities, one of which is "other duly authorized bodies of the state" which I have emphasized. Apparently, the legislature is willing to permit intrusion into the confidential records of the assessor by these enumerated governmental bodies.

Confidential info



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John Petersen
San Francisco, CA 94102

RE: Access to County Assessor's Records by Local Planning
Agencies

Dear Mr. Petersen:

This is in response to your letter dated February 26, 1988, to Assistant Chief Counsel [redacted] in which you ask whether your local planning department has a right of access to your records under Government Code section 65106.

Revenue and Taxation Code section 408 provides that the assessor's records are not public and shall not be open to public inspection except for those records required to be kept by law. (See section 408(a)) The assessor may provide appraisal data in his or her possession that relates to the appraisal of an assessee's property, but shall not provide or permit inspection of information records, other than market data, which relates to the property or business affairs of other persons, except when ordered by the courts. (See section 408b) However, the assessor shall disclose information and permit access to his or her records to law enforcement agencies, the county grand jury, the board of supervisors or their agents, persons investigating the assessor's office under section 25303 of the Government Code, the controller, probate referees, employees of the Franchise Tax Board, staff appraisers of the Department of Transportation and the Department of General Services, the State Board of Equalization, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records. (Emphasis added) You can see that access to the assessor's records has been given to many governmental entities, one of which is "other duly authorized bodies of the state" which I have emphasized. Apparently, the legislature is willing to permit intrusion into the confidential records of the assessor by these enumerated governmental bodies.

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Mr.

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A planning commission is a creation of the legislature under Government Code section 65101. The legislature has authorized this administrative body to request information from all public officials as may be required for the work of the planning agency. (Emphasis added; see Government Code section 65106)

While our conclusion is not free of doubt since the term "legislative or administrative body of the state" is not expressly defined, it is our view that a local planning agency is a legislative or administrative body of the state authorized under Revenue and Taxation Code section 408 to examine the records of the assessor by reason of its authority under section 65106 of the Government Code. Section 65106 requires the assessor (a public official) to furnish such agency within a reasonable time any available information as may be required for the work of the planning agency.

The only limitations we see to the agency's access to your records is that the agency has no direct access, but is entitled only to the information as you shall furnish it; and such information shall be that which is available to you; and such information must be shown to your satisfaction to be required for the work of the planning agency.

We are attaching copies of Revenue and Taxation Code section 408 and Government Code section 65106 for your easy reference in connection with the views expressed herein.

Very truly yours,


Robert R. Keeling
Tax Counsel

RRK/rz

Attachments

cc: Mr. Gordon P. Adelman
Mr. Robert Gustafson
Mr. Verne Walton

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